

REMARKS

Claims 13-16 are pending in the subject application. By the instant amendment, claim 13 is amended to more particularly recite the subject matter of the present invention. No new matter is added by the instant amendment, as support for the amendment is found at paragraph [0045] and FIGS. 9-11 of the specification and drawing figures, respectively, as originally filed.

Claim 13 is the sole independent claim.

The courtesies extended applicants' representative, Richard A. Sterba, during an in-person interview with Examiner Hogans conducted on February 10, 2005, are acknowledged and appreciated. The substance of the interview is set forth in the Examiner's Interview Summary and in the following Applicant Initiated Interview Summary.

Claims 13-16 are presented to the Examiner for further prosecution on the merits.

A. Asserted Anticipation of Claims 13-16

Claims 13-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by French Patent No. 2,760,130 to Michel et al. ("the Michel et al. reference"). Independent claim 13 has been amended to more particularly recite the subject matter of the present invention. It is respectfully submitted that claim 13 as amended defines the present invention over the Michel et al. reference for at least the reasons set forth below.

More specifically, applicants respectfully submit that the cited prior art reference fails to disclose or suggest "the horizontal protruding portion of the L-shaped upper spacer extending beyond the horizontal protruding portion of the L-shaped lower spacer," as presently recited in claim 13. Thus, it is respectfully submitted that the subject invention, as presently claimed, is patentably distinct from the cited prior art reference.

Although the Michel et al. reference discloses an upper and a lower spacer, each having a horizontally protruding portion, in the Michel et al. reference, a length of the horizontal protruding portion of the upper spacer is less than or equal to a length of the horizontal protruding portion of the lower spacer, as may be seen in Fig. 8. Accordingly, the horizontal protruding portion of the upper spacer does not extend beyond the horizontal protruding portion of the lower spacer.

On the contrary, in the present invention, the first insulating layer 130, which is etched to form the lower spacer 131, is over-etched during an etching process to remove a temporary spacer, i.e., second spacer 151. *See Serial No. 10/728,811, at ¶ [0045] and Fig. 9.* As a result of this over-etching, “the L-shaped fourth [lower] spacer 131 has an under-cut horizontal protruding portion under the third [upper] spacer 142 and a recessed sidewall on a lateral surface of the gate pattern 300.” *Id.* As further described in paragraph [0045], such a construction is advantageous in that it permits formation of a larger silicide reaction area in a subsequent process. This construction is not disclosed or suggested by the Michel et al. reference.

In view of the above distinction between the subject invention as presently claimed and the cited prior art reference, independent claim 13 is believed to be in condition for allowance, and a notice to that effect is respectfully requested.

Further, because the remaining claims, claims 14-16 depend directly from claim 13, claims 14-16 are believed to be similarly allowable as depending from an allowable base claim.

Accordingly, reconsideration and withdrawal of the rejections of claims 13-16 are respectfully requested.

B. Applicant Initiated Interview Summary

On February 10, 2005, an applicant initiated interview was conducted. As required by 37 C.F.R. § 1.133(b), applicants' summary of that interview is as follows:

1. Brief Description of any Exhibit Shown

No exhibit was shown or demonstrated during the interview of February 10, 2005.

2. Identification of the Claims Discussed

The Examiner and applicants' representative discussed independent claim 13.

3. Identification of the Specific Prior Art Discussed

The Examiner and applicants' representative discussed French Patent No. 2,760,130.

4. Identification of the Proposed Amendments

Although no amendments to the claims were formally proposed during the interview, applicants' representative suggested amendments to claim 13 substantially the same as the amendments as provided above.

5. Summary of the Arguments Presented to the Examiner

Applicants' representative presented arguments regarding patentable distinctions between the Michel et al. reference and the present invention. More specifically, applicants' representative and the Examiner discussed the concentration regions and the structures of the spacers of the Michel et al. reference and the present invention. Applicants' representative argued that the Michel et al. reference fails to disclose or suggest the horizontal protruding portion of the upper spacer extending beyond the horizontal protruding portion of the lower spacer.

Agreement was reached that the Michel et al. reference fails to disclose this feature.

6. General Indication of Other Pertinent Matters Discussed

No other pertinent matters were discussed during the interview of February 10, 2005.

7. General Outcome of the Interview

An agreement between the Examiner and applicants' representative was reached. In particular, it was agreed that the suggested amendments would clarify the subject matter of the present invention and that the Michel et al. reference fails to disclose an upper spacer having a horizontal portion that extends beyond a horizontal portion of a lower spacer, as presently recited in claim 13.

C. Conclusion

Since the cited prior art reference fails to anticipate or render obvious the subject invention as presently claimed, applicants respectfully submit that claims 13-16 are now in condition for allowance, and a notice to such effect is respectfully requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE, STERBA & MORSE, P.C.

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**PETITION and**  
**DEPOSIT ACCOUNT CHARGE AUTHORIZATION**

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.